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14 Corporation*

15 **UNITED STATES DISTRICT COURT**

16 **DISTRICT OF NEVADA**

17 BAYVIEW LOAN SERVICING, LLC and
18 FEDERAL HOME LOAN MORTGAGE
19 CORPORATION,

20 Plaintiff,
21 v.

22 RYAN P. WILLIAMS; HOLLY J. HARRISON;
23 INDEPENDENCE HOMEOWNERS
24 ASSOCIATION; TERRA WEST
25 COLLECTIONS GROUP, LLC D/B/A
26 ASSESSMENT MANAGEMENT SERVICES;
27 SFR INVESTMENTS POOL 1, LLC; DOE
28 INDIVIDUALS I-X, inclusive, and ROE
CORPORATIONS I-X, inclusive,

Defendants.

Case No.: 2:17-cv-00452-GMN-CWH

**STIPULATION TO STAY ALL
DISCOVERY AND DISPOSITIVE
MOTION DEADLINE PENDING
RESOLUTION OF PLAINTIFFS'
MOTION TO DISMISS, ECF NO. 45**

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1 Bayview Loan Servicing, LLC, Federal Home Loan Mortgage Corporation (**Freddie Mac**),
2 Independence Homeowners' Association (**HOA**), and SFR Investments Pool 1, LLC stipulate and agree
3 to stay all remaining discovery and dispositive motion deadlines pending adjudication of Bayview and
4 Freddie Mac's motion to dismiss, ECF No. 45.

5 **I. Procedural Background**

6 On February 10, 2017, Bayview and Freddie Mac filed its original complaint against defendants,
7 seeking, *inter alia*, a declaratory judgment that the HOA's foreclosure sale did not extinguish the deed
8 of trust. ECF No. 1. Freddie Mac, amongst others, also filed an amended complaint in case no. 2:15-
9 cv-02381-GMN-VCF against SFR on June 6, 2016, alleging that the deed of trust was not extinguished
10 as a result of the HOA foreclosure sale. On January 31, 2018, Bayview and Freddie Mac moved to
11 dismiss the current litigation. ECF No. 45.

12 In the interests of judicial economy, the parties respectfully request all discovery and the
13 dispositive motion deadline be stayed until the Court resolves the pending motion to dismiss. A ruling
14 on the pending motion may obviate the need for further discovery in this case.

15 **II. Discovery Status**

16 Discovery closes in this matter on March 7, 2018, and dispositive motions are due by April 6,
17 2018. ECF No. 32. Bayview and Freddie Mac have served initial and supplemental disclosures; the
18 HOA has served initial disclosures; and SFR has served initial and supplemental disclosures. Bayview
19 served interrogatories, requests for production, and requests for admission on the HOA and SFR on May
20 10, 2017, and the HOA and SFR answered that written discovery.

21 SFR recently noticed the depositions of Bayview and Freddie Mac. The parties anticipate a
22 dispute concerning the topics and location of the deposition, and anticipate that a motion for protective
23 order may be filed if a stay is not entered. Bayview recently noticed the deposition of Assessment
24 Management Services, the HOA, and SFR. SFR recently served interrogatories, requests for production,
25 and requests for admission on Bayview and Freddie Mac, and the responses to the written discovery
26 remain pending.

1 **III. The Case should be Stayed Pending Decision on the Motion to Dismiss**

2 **A. Tradebay Factors**

3 "In evaluating the propriety of an order staying or limiting discovery while a dispositive motion
4 is pending, the court considers the goal of Rule 1 of the Federal Rules of Civil Procedure, which directs
5 that the Rules shall 'be construed and administered to secure the just, speedy, and inexpensive
6 determination of every action.'" *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 602 (D. Nev. 2011). This
7 principle has guided the District of Nevada to develop a three-part test governing discovery stays. "First,
8 the pending motion must be potentially dispositive of the entire case or at least the issue on which
9 discovery is sought." *Rosenstein v. Clark Cty. Sch. Dist.*, No. 2:13-CV-1443-JCM-VCF, 2014 WL
10 2835074, at *3 (D. Nev. June 23, 2014) (citing *Tradebay*, 278 F.R.D. at 600). "Second, the court must
11 determine whether the pending motion to dismiss can be decided without additional discovery." *Id.*
12 (citing *Tradebay*, 278 F.R.D. at 600). Finally, "the court must take a 'preliminary peek' at the merits of
13 the pending dispositive motion to assess whether a stay is warranted." *Id.* (quoting *Tradebay*, 278 F.R.D.
14 at 603).

15 First, Bayview and Freddie Mac's pending motion to dismiss is potentially dispositive of the
16 entire case because if the motion is granted, this case is concluded. Second, Bayview and Freddie Mac's
17 motion to dismiss can be decided without additional discovery. The only issue raised by the motion is
18 whether this litigation should proceed in light of the litigation filed by Freddie Mac against SFR in case
19 no. 2:15-cv-02381-GMN-VCF. No discovery will impact the outcome of the motion. Third, a
20 "preliminary peek" at the motion shows that, on its merits, if granted it will fully resolve this matter.

21 **B. Other Factors**

22 Federal district courts have "wide discretion in controlling discovery." *Little v. City of Seattle*,
23 863 F.2d 681,685 (9th Cir. 1988). To determine if a stay is appropriate, the court considers (1) damage
24 from the stay; (2) hardship or inequity that befalls one party more than the other; and (3) the orderly
25 course of justice. *See Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th
26 Cir. 2007) (setting forth factors). Here, the factors support a stay of discovery pending resolution of the
27 motion to dismiss.

28 First, any damage from a partial stay in this case will be minimal if balanced against the

1 potentially unnecessary fees, costs, and time which each party would have to incur in completing
2 discovery, including travel and preparation for the above identified depositions and any related disputes.
3 Moreover, the Court will be relieved of expending further time and effort considering any discovery-
4 related motions or protective orders. Thus, a stay will benefit all parties involved as well as the Court.
5 Lastly, judicial economy and the orderly course of justice support staying further discovery. Bayview
6 and Freddie Mac's motion, if granted, will result in the resolution of the entire case. Without a stay of
7 discovery, the parties will expend resources that will be unnecessary if the motion is granted. It is
8 therefore appropriate for this court to exercise its power to grant a stay of discovery at this time. A trial
9 date has not yet been set.

10 WHEREFORE, the parties respectfully request the Court issue an order staying discovery and
11 future deadlines pending adjudication of Bayview and Freddie Mac's motion to dismiss.

12 DATED this 8th day of February, 2018.

13 **AKERMAN LLP**

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1 IT IS SO ORDERED. IT IS FURTHER ORDERED that if the motion to dismiss is
2 denied, the parties must meet and confer and file a revised discovery plan within
3 21 days of the court's order on the motion to dismiss.

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5 **UNITED STATES MAGISTRATE JUDGE**

6 February 9, 2018

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